

## **Senate Bill No. 203**

### **CHAPTER 124**

An act to amend Sections 31520.1, 31520.2, 31520.3, 31520.4, and 31520.5 of, to add Section 31523.1 to, and to repeal and add Section 31523 of, the Government Code, relating to county retirement.

[Approved by Governor July 26, 2011. Filed with  
Secretary of State July 26, 2011.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

SB 203, Correa. County employee retirement: boards.

(1) The County Employees Retirement Law of 1937 sets forth the membership composition for boards of retirement, as specified. Under that law, the retirement board in specified counties is comprised of 9 members and an alternate member who is the candidate for the 7th member from the group of safety members, under specified provisions, that is not represented by a board member who received the highest number of votes for all candidates in that group, except as specified. The alternate member has, unless prohibited by a resolution or regulation of the board, the same rights, privileges, responsibilities, and access to closed sessions, as the 2nd, 3rd, 7th, and 8th member and the right to hold positions on committees of the board independent of the 2nd, 3rd, 7th, or 8th member, and to participate in the deliberations of the board or its committees, as specified.

This bill would delete the authority of the board to prohibit, by a resolution or regulation of the board, a member from having the same rights, privileges, responsibilities, and access to closed sessions as the 2nd, 3rd, 7th, or 8th member, or from holding positions on committees of the board, and participating in board or committee deliberations, as described above. The bill would authorize the alternate 7th member to participate in the deliberations of the board on any of its committees to which the alternate 7th member has been appointed regardless of whether the 2nd, 3rd, 7th, or 8th member is present. The bill would require the board to cause an election to be held at the earliest possible date to fill a vacancy for the duration of the current term, except as specified, if there is a vacancy in the 2nd, 3rd, 7th, 8th, or alternate 7th member position. It would limit candidacy for the 7th member and alternate member positions, as specified. The bill would require the board of supervisors to forgo an election in specified circumstances when there is only one candidate. The bill would also make various changes in terminology and delete obsolete references.

(2) Existing law prescribes the manner of appointing an alternate retired member to the office of the 8th member of the board of retirement. If there is a vacancy with respect to the 8th member, existing law requires that the alternate retired member fill the vacancy until a successor qualifies. Existing

law authorizes the alternate retired member to hold positions on committees of the board independent of the 8th member and to participate in the deliberations of the board or its committees regardless of whether the 8th member is present, unless prohibited by resolution or regulation of the board.

This bill would instead require the alternate retired member to fill the vacancy with respect to the 8th member for the remainder of the 8th member's term of office. The bill would also require the board of retirement to, by majority vote, appoint a replacement alternate member, in the same manner as prescribed for the initial appointment of an alternate retired member, who shall serve until the expiration of the current term of the current member. The alternate retired member would have the same rights, privileges, responsibilities, and access to closed sessions as the 8th member, except as specified. The bill would also delete the authority of the board to prohibit the alternate retired member from holding positions on committees of the board or participating in the deliberations of the board or any of its committees to which the alternate retired member has been appointed, as described above. The bill would also make changes in terminology.

(3) Existing law permits the board of supervisors in a county in which the assets of the retirement system exceed \$800,000,000 to establish a board of investments, to consist of 9 members of specified classifications, which is responsible for the investments of the retirement system. Existing law prescribes the terms for the members of the board of investments.

This bill would prescribe a process for filling vacancies in specified positions on a board of investments, as described above. The bill would require the board to cause an election to be held at the earliest possible date to fill those vacancies, except as specified, with a replacement member to serve for the duration of the current term, unless the remaining portion is 6 months or less, in which case a single election would be authorized to be held to fill the position for the vacant term position and the succeeding term. The bill would require the board of supervisors to forgo an election in specified circumstances when there is only one candidate. The bill would also delete obsolete references and establish the initial term of a person appointed as a 9th member.

*The people of the State of California do enact as follows:*

SECTION 1. Section 31520.1 of the Government Code is amended to read:

31520.1. (a) In any county subject to Articles 6.8 (commencing with Section 31639) and 7.5 (commencing with Section 31662.2), the board of retirement shall consist of nine members and one alternate, one of whom shall be the county treasurer. The second and third members of the board shall be members of the association, other than safety members, elected by those members within 30 days after the retirement system becomes operative in a manner determined by the board of supervisors. The fourth, fifth, sixth, and ninth members shall be qualified electors of the county who are not

connected with the county government in any capacity, except one may be a supervisor, and shall be appointed by the board of supervisors. A supervisor appointed as a member of the retirement board may not serve beyond his or her term of office as supervisor. The seventh member shall be a safety member of the association elected by the safety members. The eighth member shall be a retired member elected by the retired members of the association in a manner to be determined by the board of supervisors. The alternate member shall be that candidate, if any, for the seventh member from the group under Section 31470.2 or 31470.4, or any other eligible safety member in a county if there is no eligible candidate from the groups under Sections 31470.2 and 31470.4, which is not represented by a board member who received the highest number of votes of all candidates in that group, and shall be referred to as the alternate seventh member. If there is no eligible candidate there may not be an alternate seventh member. The first person chosen as the second and fourth members shall serve for a term of two years beginning with the date the system becomes operative, the third and fifth members shall serve for a term of three years beginning with that date, and the sixth, seventh and alternate seventh members shall serve for a term of two years beginning on the date on which a retirement system established by this chapter becomes operative. The eighth and ninth members shall take office as soon as practicable for an initial term to expire concurrent with the expiration of the longest remaining term of an elected member. Thereafter, the terms of office of the elected, appointed, and alternate seventh members are three years, except as provided in Section 31523.

(b) The alternate seventh member provided for by this section shall vote as a member of the board only if the second, third, seventh, or eighth member is absent from a board meeting for any cause, or if there is a vacancy with respect to the second, third, seventh, or eighth member, the alternate seventh member shall fill the vacancy until a successor qualifies. The alternate seventh member shall sit on the board in place of the seventh member if a member of the same service is before the board for determination of his or her retirement.

(c) The alternate seventh member shall be entitled to both of the following:

(1) The alternate seventh member shall have the same rights, privileges, responsibilities, and access to closed sessions as the second, third, seventh, and eighth member.

(2) The alternate seventh member may hold positions on committees of the board independent of the second, third, seventh, or eighth member and may participate in the deliberations of the board or any of its committees to which the alternate seventh member has been appointed whether or not the second, third, seventh, or eighth member is present.

SEC. 2. Section 31520.2 of the Government Code is amended to read:

31520.2. (a) In any county in which the assets of the retirement system exceed eight hundred million dollars (\$800,000,000), the board of supervisors may, by resolution, establish a board of investments. The board shall consist of nine members, one of whom shall be the county treasurer.

The second and third members shall be general members of the association elected by the general membership of the association for a three-year term. The fourth member shall be a safety member elected by the safety membership of the association for a three-year term. The eighth member shall be a retired member of the association elected by the retired membership of the association for a three-year term. The fifth, sixth, seventh, and ninth members shall be qualified electors of the county who are not connected with county government in any capacity, and shall be appointed by the board of supervisors. They shall also have had significant experience in institutional investing, either as investment officer of a bank, or trust company; or as investment officer of an insurance company, or in an active, or advisory, capacity as to investments of institutional or endowment funds. The first person chosen as a fifth, sixth, or seventh member shall serve for a three-year term, the second person chosen shall serve a four-year term, and the third person chosen shall serve a two-year term. The first person appointed as the ninth member shall serve a one-year term. Thereafter, all terms of all appointed members shall be three years.

(b) The board of investments shall be responsible for all investments of the retirement system.

SEC. 3. Section 31520.3 of the Government Code is amended to read:

31520.3. (a) Notwithstanding Section 31520.1, the board of retirement of a county of the 16th class, as defined by Sections 28020 and 28037, as amended by Chapter 1204 of the Statutes of 1971, may, by majority vote, appoint, from a list of nominees submitted by an organization consisting solely of retired members, an alternate retired member to the office of the eighth member, who shall serve until the expiration of the current term of the current eighth member and thereafter the alternate retired member shall be elected by the retired members of the association in the same manner and at the same time as the eighth member is elected.

(b) The term of office of the alternate retired member shall run concurrently with the term of office of the eighth member. The alternate retired member shall vote as a member of the board only in the event the eighth member is absent from a board meeting for any cause. If there is a vacancy with respect to the eighth member, the alternate retired member shall fill that vacancy for the remainder of the eighth member's term of office.

(c) Except as provided in subdivision (b), the alternate retired member shall be entitled to the same rights and privileges and shall have the same responsibilities and access to closed sessions as the eighth member. The alternate retired member may hold positions on committees of the board independent of the eighth member and may participate in the deliberations of the board or any of its committees to which the alternate retired member has been appointed whether or not the eighth member is present.

(d) The alternate retired member shall be entitled to the same compensation as the eighth member for attending a meeting, pursuant to Section 31521, whether or not the eighth member is in attendance at those meetings.

(e) (1) In the event that this section is made applicable in any county, by the appointment of an alternate eighth member, the alternate seventh member shall not sit and act for the retired member, except as described in paragraph (2).

(2) If both the eighth member and the alternate retired member are not attending a meeting, the alternate seventh member may sit and act for the eighth member as described in Section 31520.1.

SEC. 4. Section 31520.4 of the Government Code is amended to read:

31520.4. In any county with a board of retirement composed of nine members pursuant to Section 31520.1, if the second, third, seventh, or alternate seventh member of the board is injured or killed while performing his or her duties as a member of the board, that member shall be deemed to have been acting in the course and scope of his or her duties as an employee of the county or district employing the member, for the limited purpose of determining eligibility for workers' compensation benefits or disability or death benefits from the retirement system.

This section shall not be operative in any county until the board of supervisors, by resolution adopted by a majority vote, makes this section operative in that county.

SEC. 5. Section 31520.5 of the Government Code is amended to read:

31520.5. (a) Notwithstanding Section 31520.1, in any county subject to Articles 6.8 (commencing with Section 31639) and 7.5 (commencing with Section 31662), the board of retirement may, by majority vote, appoint, from a list of nominees submitted by a qualified retiree organization, an alternate retired member to the office of the eighth member, who shall serve until the expiration of the current term of the current eighth member. Thereafter, the alternate retired member shall be elected separately by the retired members of the association in the same manner and at the same time as the eighth member is elected. An organization shall be deemed to be a "qualified retiree organization" for purposes of this subdivision if a majority of the members of the organization are retired members of the system.

(b) The term of office of the alternate retired member shall run concurrently with the term of office of the eighth member. The alternate retired member shall vote as a member of the board only in the event the eighth member is absent from a board meeting for any cause. If there is a vacancy with respect to the eighth member, the alternate retired member shall fill that vacancy for the remainder of the eighth member's term of office.

(c) Except as otherwise provided in this section, the alternate retired member shall be entitled to the same rights and privileges and shall have the same responsibilities and access to closed sessions as the eighth member.

(d) The alternate retired member may hold positions on committees of the board independent of the eighth member and may participate in the deliberations of the board or any of its committees to which the alternate retired member has been appointed whether or not the eighth member is present.

(e) The alternate retired member shall be entitled to the same compensation as the eighth member for attending a meeting, pursuant to Sections 31521 and 31521.1, whether or not the eighth member is in attendance at those meetings.

(f) (1) If this section is made applicable in any county, by the appointment of an alternate eighth member, the alternate seventh member shall not sit and act for the eighth member, except as described in paragraph (2).

(2) If both the eighth member and the alternate retired member are not attending a meeting, the alternate seventh member may sit and act for the eighth member as described in Section 31520.1.

SEC. 6. Section 31523 of the Government Code is repealed.

SEC. 7. Section 31523 is added to the Government Code, to read:

31523. (a) In the event of a vacancy in the second, third, seventh, eighth, or alternate seventh member position on the board of retirement, the board shall cause an election to fill the vacancy to be held at the earliest possible date, except as provided in Sections 31520.3 and 31520.5. The vacancy in the second, third, or eighth member position on the board of retirement shall be filled for the duration of the current term except that, if the remaining portion of the current term is six months or less on the date of the election, a single election may be held to fill the vacancy for the remainder of the current term and to fill the position for the succeeding term. With respect to a vacancy in the seventh member position, candidates shall be a safety member from a group which is not represented by an incumbent alternate seventh member. With respect to the alternate seventh member position, the candidates shall be limited to the group under Section 31470.2 or 31470.4, or any other eligible safety member in a county if there is no eligible candidate from the groups under Sections 31470.2 and 31470.4 that is not represented by an incumbent seventh board member. The successful candidate shall serve for the duration of the current term.

(b) If there is a vacancy with respect to the alternate retired member, the board of retirement shall, by majority vote, appoint a replacement alternate member in the same manner as prescribed in Sections 31520.3 and 31520.5 for the initial appointment of an alternate retired member, who shall serve until the expiration of the current term of the current eighth member.

(c) If an election has been called on the expiration of the term of office of any member or alternate member, or to fill a vacancy for the second, third, seventh, eighth, or alternate seventh member of a board of retirement, and only one candidate has been duly nominated in accordance with the rules established for the holding of that election, the board of supervisors shall order that no election be held and shall direct the clerk to cast a unanimous ballot in favor of the candidate.

SEC. 8. Section 31523.1 is added to the Government Code, to read:

31523.1. (a) In the event of a vacancy in the second, third, fourth, or eighth member position on a board of investments established pursuant to Section 31520.2, the board of investments shall cause an election to be held at the earliest possible date to fill the vacancy. The vacancy in the second,

third, fourth, or eighth member position shall be filled for the duration of the current term except that, if the remaining portion of the current term on the date of the election is six months or less, a single election may be held to fill the vacancy for the remainder of the current term and to fill the position for the succeeding term.

(b) If an election has been called on the expiration of the term of office of any member, or to fill a vacancy for the second, third, fourth, or eighth member position of a board of investments, and only one candidate has been duly nominated in accordance with the rules established for the holding of that election, the board of supervisors shall order that no election be held and shall direct the clerk to cast a unanimous ballot in favor of the candidate.